IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 16525 of 1991

Between:

M/s Pritam Gardens S.C.No.51,Gandiguda

Village, Shamshabad (post) Rajendranagar

Mandal, RR district.

..... PETITIONER

AND

1.The Andhra Pradesh State Electricity Board

rep. by its Secretary, Vidyut Soudha, Somajiguda

Hyderabad.

2.The Chief Engineer, Electricity, APSEB

Metropolitan Zone, Mint compound, Hyderabad.

3.The Superintending Engineer, Assessments,

11-5-310/3/2, Red Hills, Hyderabad.

4.The Assistant Divisional Engineer, Operation

Rural, West, APSEB, Ibrahimbagh, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or other appropriate Writ, order or direction calling for the records relating to and quashing the order passed by the 2nd respondent, vide Lr. No.CEE/MZ/HYD/SMRT/A.15 of 88/Sec'bad/D.No.346/91 dated 12-10-1991 confirming the order passed by the 3rd respondent, vide Order No.SEA/(HYD)/SAT-1897/6/88/D.No.553, dated 30-6-1988.

Counsel for the Petitioner: MR.A.VEERASWAMY
Counsel for the Respondents:: SMT.M.VINOBA DEVI, S.C. FOR APSEB

The Court made the following :

ORDER

Heard both sides.

The petitioner herein, who is running an industry, files this Writ Petition *inter alia* seeks to assail the impugned action of the 3rd respondent in levying the claim in pursuance of the inspection made on 4-9-1985 by the Assistant Divisional Engineer concerned. There upon a provisional assessment notice has been served on the petitioner on the ground that there is pilferage of energy at Rs. 2,03,658-00 and the supply was disconnected on 4-9-1985. The said allegations are being denied. There was again a demand and ultimately leading to several correspondences between them. Thereafter, a show cause notice dated 15-4-1987 was issued to the petitioner provisionally estimating the loss at Rs.2,06,086-50 paise and called upon the petitioner to submit his written representation. On considering the representation filed by the petitioner, final assessment order was passed on 30-6-1988 by the 3rd respondent herein holding that the petitioner is guilty of pilferage of energy. Aggrieved thereby, the petitioner has filed an appeal before the 2nd respondent, who, as per orders dated 12-10-1991, confirmed the same. The case of the petitioner is that the

entire impugned action is wholly contrary to the provisions of the Act and also the conditions as contained therein. Hence the Writ Petition.

The learned Standing Counsel appearing on behalf of the respondents sought to repel the aforesaid contentions.

Considering the submissions made on behalf of both sides and also on perusal of the record, it is seen that in pursuance of the inspection made, as aforesaid, certain incrimination circumstances are found namely, the meter top cover seals and meter box seals are meddled, the meter when tested with 2.5 KW load, it was found that the meter disc was rotating slow in all the three phases, the meter has recorded a consumption of 630 units in two days i.e., from19-8-1985 to 21-8-1985 and total connected load on 19-8-1985 is 20 HP + 53.52 KW against the sanctioned load of 20 HP. Though the petitioner has failed a detailed explanation, the same was denied. However, not only the primary authority but also the appellate authority after taking into consideration, did not find in favour of the petitioner and confirmed the demand of Rs.2,06,086-50 paise. By taking into consideration the various factors especially the long pendency and in view of the fact that the inspection was made as long back as on 4-9-1985 and the entire assessment is purely on the guess work and in view of the nature of the allegations made, I am of the view that the amount as found for pilferage of energy is quite on higher side. In view of the finding of fact as arrived at by both the authorities, interest of Justice would be met if the amount of Rs.2,06,086-50 paise is reduced to Rs.1,03,043-25 paise together with supervision charges at Rs.100/-.

Accordingly, the Writ Petition is allowed in part. No costs.

25-11-2004.

Hsd

That Rule Nisi has been absolute as above.

Witness Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the

Twenty Fifth day of November Two Thousand and Four.

Asst. Regisrar.

To,

1.The Secretary, Andhra Pradesh State Electricity Board

Vidyut Soudha, Somajiguda Hyderabad.

2.The Chief Engineer, Electricity, APSEB

Metropolitan Zone, Mint compound, Hyderabad.

3.The Superintending Engineer, Assessments,

11-5-310/3/2, Red Hills, Hyderabad.

4.The Assistant Divisional Engineer, Operation

Rural, West, APSEB, Ibrahimbagh, Hyderabad.

5. 2 C.D. copies.